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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,257	01/22/2002	Frederick R. Bean	TN-2239	3692
7590	07/25/2005		EXAMINER	
Adan Ayala, Esq. Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

S/N

Office Action Summary	Application No.	Applicant(s)
	10/054,257	BEAN ET AL.
	Examiner Phong H. Nguyen	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7, 9, 10 and 13-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7, 9, 10 and 13-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The cancellation of claim 12 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, the phrase “said wearing ring not having any movable portions disposed between the table and base assembly” is confusing. The wear ring is not fixedly attached to the table or the base assembly to facilitate the rotation of the wear ring as stated in paragraph [0032] of the Specification. How can there be non-movable portions on the wear ring? Claim 1 will be interpreted without the phrase “said wearing ring not having any movable portions disposed between the table and base assembly”.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The status of claim 12 is indicated both "original" and "canceled". It is assumed that claim 12 is canceled.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Brault et al. (6,431,042 B1), hereinafter Brault.

Regarding claims 1-5, Brault teaches a saw assembly comprising a base 14 having a circular well 66, a table 182 rotatably attached to the base, a saw assembly 150 and a wearing ring 138 having a L-shaped cross-section. See Figs. 1 and 5-7.

It is noted that using metal to manufacture the ring 138 is old and well known in the art as admitted by the Applicants. See paragraph [0031] in the Specification.

Regarding claims 6 and 7, a wall 106 extending from the well is best seen Fig. 5.

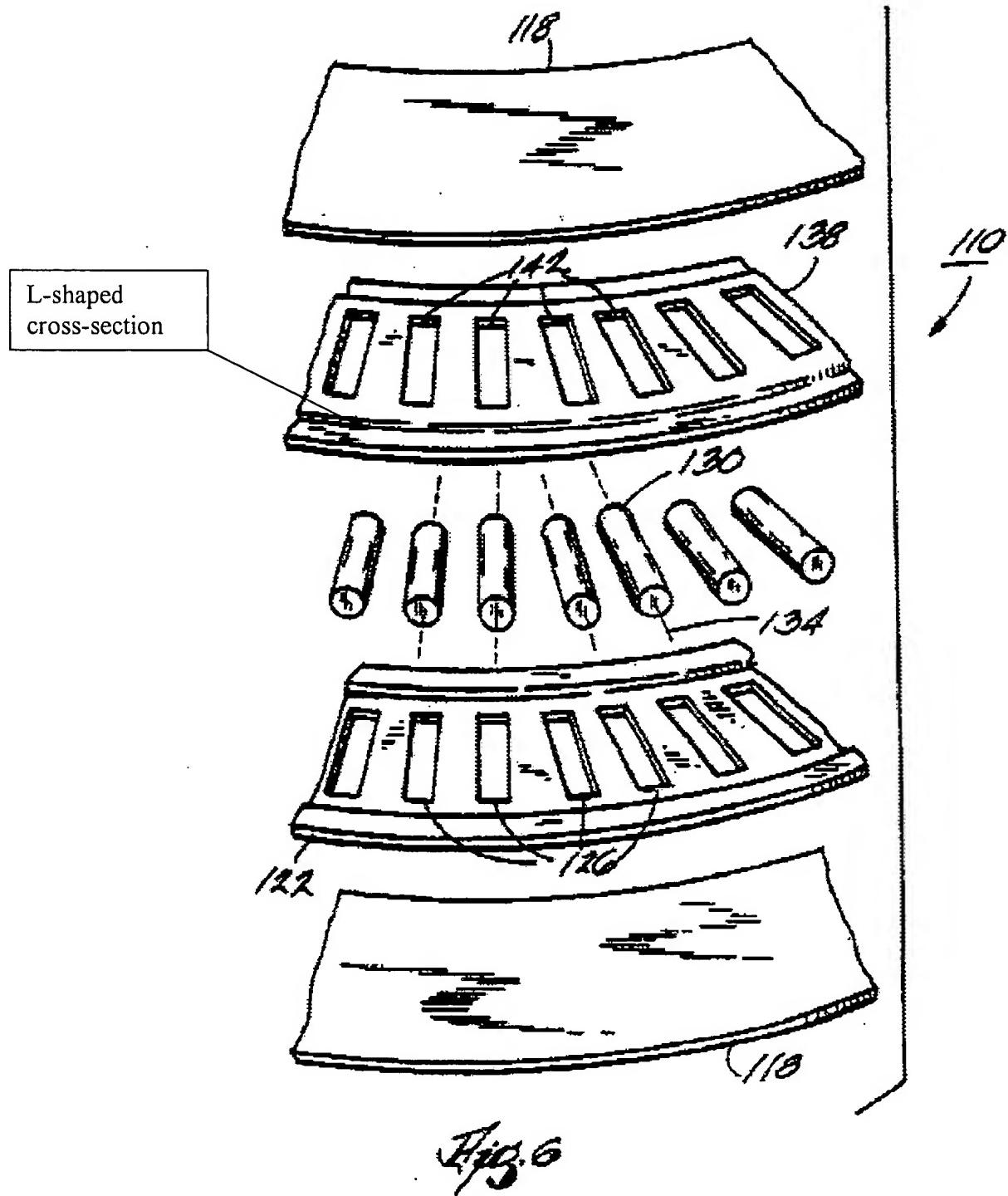


Fig. 6

7. Claims 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Stumpf et al. (6,418,830 B1), hereinafter Stumpf.

Stumpf teaches a miter saw assembly comprising a base 12, a table assembly 14 pivotably attached to the base, a fixed fence 48 and sliding fences 132 having a hole 178 for fixing an end stop fixture 68 thereto. See Figs. 1, 4, 5, 8A and 8B.

It is noted that providing an appropriate hole's size 176 to accommodate the screw 68 involves routine skill in the art.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

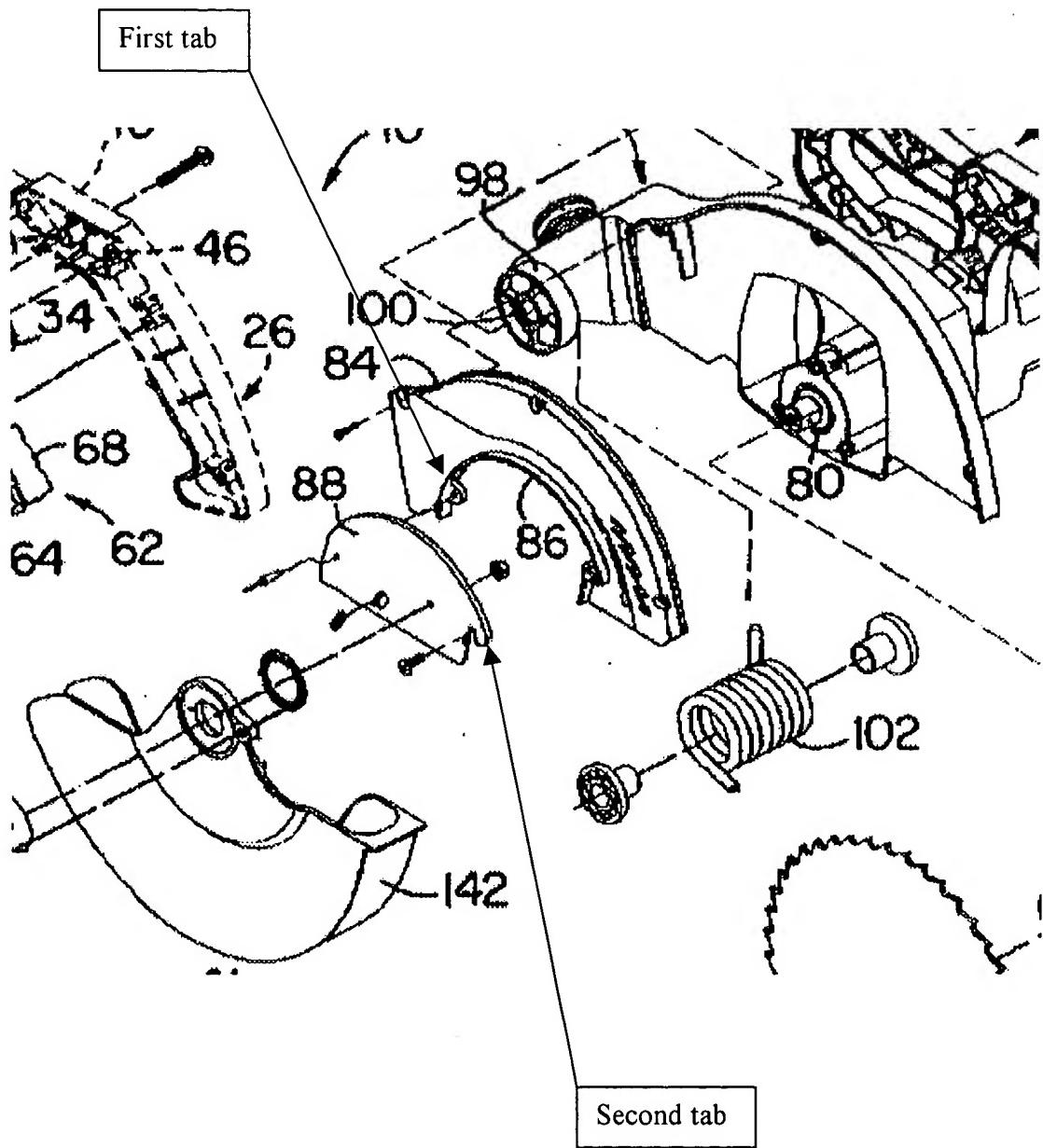
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen (5,778,747).

Regarding claim 13, Chen teaches a chop saw assembly comprising a base assembly and a saw assembly. The saw assembly comprises an upper blade guard 84, a plate 88 and a lower blade guard 142. A screw secures the plate 88 to the upper blade guard 84.

A first tab on the upper blade guard 84 extends outwardly near the screw. The thickness of the first tab is the first distance. It is inherently to unscrew the screw a distance longer than the first distance to pivot the plate 88. See Figs. 1 and 3.

Regarding claims 14-16, a second tab on the plate is best seen in Fig. 3.



Response to Arguments

10. Applicants' arguments filed on 06/01/2005 have been fully considered but they are not persuasive.

Regarding Applicants' arguments with respect to the rejections of claim 1 under 35 USC 112, 1st paragraph, for failing to comply with the enablement requirement and 35 USC 102(e) as being anticipated by Brault (6,431,042), the wearing ring 14 in Fig. 2 of the Applicants' disclosure comprises an horizontal flat ring and a vertical cylindrical ring. When the wearing ring 14 rotates, the horizontal flat ring and the vertical cylindrical ring rotate. Therefore, there are no non-moveable portions. Since 35 USC 112 1st paragraph issue is unresolved, the rejections of claim 1 under 35 USC 112, 1st paragraph and 35 USC 102(e) stand.

Regarding Applicants' argument with respect to claim 9, Applicants argue that the term "stop fixture" is a common term and means "a device that supports a workpiece and arrests the motions of such workpiece during machining." The Examiner respectfully disagrees. Since the Applicants do not define the structure of "the end stop fixture", the Examiner interprets the term differently. According to the Applicants' attachment of the Merriam-Webster's Online Dictionary, "stop" means "something that impedes, obstructs, or brings to a halt," and "fixture" means "the state of being fixed," the bolt 68 is considered the stop fixture since it obstructs the movement of the sliding fence and fixedly holds the sliding fence to the fixed fence.

Regarding Applicants' argument with respect to claim 13 that there is no teaching that the second distance is longer than the distance between the lower blade guard and the upper blade guard, the Examiner respectfully disagrees. The second distance is a

minimum distance that the screw needs to be unscrewed so that the lower blade guard can pivot about the upper blade guard. Since the lower blade guard can pivot about the upper blade guard when the screw is unscrewed a distance even less than the first distance, unscrewing the screw a distance longer than the first distances would not obstruct the pivotal movement of the lower blade guard relative to the upper blade guard. Therefore, the second distance is inherent in Chen. Since the upper blade guard is in contact with the lower blade guard, which means zero distance, any movement of the screw would constitute the second distance being longer than the distance between the lower blade guard and the upper blade guard.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*
February 3, 2005

ac
Allan N. Shoap
Supervisory Patent Examiner
Group 3700